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**FILED**  
**DISTRICT COURT OF GUAM**

APR 18 2008

**JEANNE G. QUINATA**  
**Clerk of Court**

6  
7 **IN THE UNITED STATES DISTRICT COURT**

8 **TERRITORY OF GUAM**

9 UNITED STATES OF AMERICA,

CRIMINAL CASE NO. CR07-00064

10  
11 vs.

**MOTION TO DISMISS SUPERSEDING  
INDICTMENT FOR PROSECUTORIAL  
VINDICTIVENESS**

12 IN HYUK KIM aka DOMINIC,

13 Defendant.  
14

15  
16 **INTRODUCTION**

17 Defendant, through counsel, LUJAN AGUIGUI & PEREZ LLP, moves to dismiss with  
18 prejudice the Superseding Indictment filed against him on March 12, 2008 on the ground of  
19 prosecutorial vindictiveness. The Superseding Indictment containing more extensive conspiracy to  
20 commit alien smuggling charges and three (3) new counts of alien smuggling was filed only after  
21 Defendant Kim exercised his procedural, constitutional, and statutory rights to reject the  
22 Government's plea offer, plead not guilty, and to file motions to suppress, dismiss and exclude.  
23 The Government could have prosecuted Kim for the charges in the Superseding Indictment well  
24 before he asserted his rights, had the evidence and information to do so, but filed the Superseding  
25 Indictment only after Kim exercised his legal rights by rejecting the plea offer and filing and  
26 arguing motions. Had Kim accepted the plea offer, the Government would not have filed a  
27  
28

ORIGINAL

1 Superseding Indictment. Had Kim not filed and argued motions asserting his constitutional,  
2 procedural and statutory rights, the Government would not have filed the Superseding Indictment.  
3 The Superseding Indictment is the product of prosecutorial vindictiveness and should be dismissed  
4 with prejudice.

### 6 FACTS

7 The Government had the evidence and information it would have needed to file the charges  
8 contained in the Superseding Indictment as early as January 23, 2006 when it received information  
9 and investigated Yeju An's claims that Mi Kyung Bosley and Kim were falsifying the departures  
10 of Korean non-immigrant females who entered Guam under the Guam Visa Waiver program. See  
11 Report of Investigation, An's Statement Regarding I-94 Scam and Employment of Korean  
12 Females, attached herewith as **Exhibit A**. This Report, along with other information and evidence  
13 collected by the Government from January 2006, or earlier, through July 31, 2007, is the basis of  
14 the Superseding Indictment charges.

15  
16 On July 25, 2007 the Government obtained an Indictment against Kim which charged Kim  
17 and co-Defendant Mi Kyung Bosley with Conspiracy to Commit Alien Smuggling in violation of  
18 18 U.S.C. §§ 2 and 371. The Indictment alleged, *inter alia*:

19 On or between November 2, 2006, and January 30, 2007, within the  
20 District of Guam and elsewhere, the Defendants herein, MI KYUNG  
21 BOSLEY and IN HYUK KIM, did unlawfully, willfully, and knowingly  
22 combine, conspire, confederate and agree with each other and with other  
23 persons both known and unknown to the Grand Jury, to commit an  
24 offense against the United States, to wit: alien smuggling for commercial  
25 advantage and financial gain, in violation of Title 8, U.S.C.  
26 1324(a)(1)(A)(iii), and did commit overt acts in furtherance of said  
27 conspiracy and to achieve the object thereof...

28 The Indictment then alleged six (6) paragraphs of overt acts involving the following aliens:  
29 (a) Su Jeong Choi; (b) Ji Young An; (c) Jang Mi Byeon; and, (d) Mi Sun Im.

1 On August 9, 2007 the Government transmitted a Plea Agreement to Kim. The  
2 Government's cover letter and the Plea Agreement are attached herewith as **Exhibits B.1 and B.2**.  
3 Rather than accept the Government's plea offer, Kim instead exercised his right to plead not guilty  
4 to the Indictment and if necessary, to proceed to trial.

5  
6 On December 21, 2007, Kim exercised his Constitutional and procedural rights by filing  
7 the following motions: (a) Motion to Dismiss Indictment for Failure to State an Offense; (b) In  
8 Limine Motion to Exclude 404(b) Evidence; (c) Motion to Suppress for Miranda Violations; (d)  
9 Motion to Suppress Co-Defendant's Statements.

10 The Government filed United States' Response to Defendant's Motions on December 28,  
11 2007. The Government attached to its Response the following Exhibits:

- 12 1. Transcript of 11/02/06 call to Bosley;
- 13 2. Transcript of 11/06/06 call to Bosley;
- 14 3. Transcript of 11/06/06 meeting at Kings with Bosley;
- 15 4. Transcript of 11/18/06 meeting at Kings with Bosley;
- 16 5. Transcript of 1/16/08 meeting at Kings with Kim;
- 17 6. Transcript of 2/07/08 call to Bosley;
- 18 7. Transcript of 2/07/08 call to Kim;
- 19 8. Statement of Rights Form allegedly executed by Kim on 7/31/07;
- 20 9. Affidavit allegedly written by Kim on 7/31/07; and,
- 21 10. Report of Investigation concerning statements allegedly made by Kim on 7/31/07.

22 These exhibits are attached herewith as **Exhibits C.1-C.10**. The Government's exhibits, along  
23 with the other Reports referenced herein establish that the Government had more than enough  
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1 evidence to proceed with the charges contained in the Superseding Indictment well before Kim  
2 asserted his legal rights.

3 Hearings on Kim's motions were held beginning February 11, 2008. At the motions hearings  
4 the Government presented Exhibits 1-10 and the testimony of Agents John Duenas and Richard  
5 Flores. During the motions hearings arguments the Government advised the Court that a  
6 Superseding Indictment was "imminent." The Government subsequently stated, "I hope it is  
7 imminent."  
8

9 On March 12, 2008 the Government filed a Superseding Indictment against Kim and  
10 Bosley charging them with Conspiracy to Commit Alien Smuggling in violation of 8 U.S.C. §§ 2  
11 and 371 and Alien Smuggling in violation of 8 U.S.C. §§1324(a)(1)(A)(iii) and (a)(1)(B)(i). Count  
12 I paragraphs 13-18 are identical to the original Indictment charge, paragraphs 1-6. Count 1  
13 paragraphs 1-12, Count II, Count III, and Count IV are based upon evidence and information the  
14 Government possessed well before Kim asserted his constitutional, procedural and statutory rights.  
15 Kim now moves to dismiss with prejudice the Superseding Indictment on the ground of  
16 prosecutorial vindictiveness.  
17

### 18 ARGUMENT

19 The Superseding Indictment filed against Kim after the exercise of his statutory, procedural  
20 and constitutional rights, is the product of prosecutorial vindictiveness and should be dismissed  
21 with prejudice. The Government violates a Defendant's right to due process of law if it files alien  
22 smuggling charges to penalize him for exercising a protected statutory or constitutional right.  
23 *United States v. Goodwin*, 457 U.S. 368, 372, 102 S.Ct. 2485, 73 L.Ed.2d 74 (1982). A Defendant  
24 may establish prosecutorial vindictiveness by producing direct evidence of the prosecutor's  
25 punitive motivation towards him. *United States v. Gallegos-Curiel*, 681 F.2d 1164, 1168 (9<sup>th</sup>  
26  
27

1 Cir.1982). Alternatively, a Defendant is entitled to a presumption of vindictiveness if he can show  
2 that the alien smuggling charges “were filed because [he] exercised a statutory, procedural, or  
3 constitutional right in circumstances that give rise to an appearance of vindictiveness.” *Id.* In the  
4 instant case, the Government filed the additional alien smuggling charges because Kim exercised  
5 his legal rights by rejecting the plea offer, maintaining his not guilty plea, and filing and arguing  
6 motions, asserting constitutional, procedural, and statutory rights. Had he not asserted his legal  
7 rights, the Government would not have filed a Superseding Indictment.

9 To establish a presumption of vindictiveness, a Defendant need not show “that the  
10 prosecutor acted in bad faith” or that she “maliciously sought” the alien smuggling indictment.  
11 *United States v. Groves*, 571 F.2d 450, 453 (9<sup>th</sup> Cir.1978). Rather, he must demonstrate a  
12 *reasonable likelihood* that the government would not have brought the alien smuggling charges  
13 had he not elected to exercise a statutory, procedural or constitutional right. *Gallegos-Curiel* 681  
14 F.2d at 1169. That is what occurred here when the Government filed the additional alien  
15 smuggling charges in response to Kim’s assertion of his legal rights.

17 The mere appearance of prosecutorial vindictiveness suffices to place the burden on the  
18 government because the doctrine of vindictive prosecution “seek[s] to reduce or eliminate  
19 apprehension on the part of an accused” that he may be punished for exercising his rights. *United*  
20 *States v. Ruesga-Martinez*, 534 F.2d 1367, 1369 (9<sup>th</sup> Cir.1976). The “prophylactic” doctrine is  
21 designed, in part, “to prevent chilling the exercise of [legal] rights by other defendants who must  
22 make their choices under similar circumstances in the future.” *United States v. DeMarco*, 550 F.2d  
23 1224, 1227 (9<sup>th</sup> Cir.1977).

25 The presumption of vindictiveness raised by the prosecutor’s decision to file alien  
26 smuggling charges after a Defendant’s exercise of a protected right must be overcome by  
27

1 “objective evidence justifying the prosecutor’s action.” *Goodwin*, 457 U.S. at 376 n. 8, 102 S.Ct.  
2 2485. The prosecution must show that the additional charges “did not stem from a vindictive  
3 motive, or [were] justified by independent reasons or intervening circumstances that dispel the  
4 appearance of vindictiveness.” *Gallegos-Curiel*, 681 F.2d at 1168. In the instant case, the  
5 Government cannot.  
6

7 In a case directly on point in both fact and law to the instant case, the Ninth Circuit  
8 affirmed the district court’s dismissal of an indictment on the ground of prosecutorial  
9 vindictiveness. In *United States v. Jenkins*, 504 F.3d 694 (9<sup>th</sup> Cir.2007), Jenkins was apprehended  
10 twice for attempting to cross the U.S.-Mexico border while driving a vehicle containing  
11 undocumented aliens. Both times, Jenkins stated that she had been paid to drive the car across the  
12 border. She was not charged with any crime. Almost three months later, Jenkins was apprehended  
13 while attempting to cross the border as a passenger in a vehicle containing marijuana. She stated  
14 that she had been paid to drive the car, which she believed contained illegal aliens, across the  
15 border. Jenkins was charged with importation of marijuana. At trial, she testified in her own  
16 defense and maintained that she believed the vehicle in which she had been a passenger contained  
17 illegal aliens because she had been paid on two previous occasions to smuggle aliens. While the  
18 jury was deliberating, the government filed alien smuggling charges against Jenkins in connection  
19 with her first two border apprehensions. The district court found that the prosecutor’s conduct  
20 created the appearance of vindictive prosecution because the alien smuggling charges were  
21 brought only after Jenkins exercised her right to testify in her own defense at her separate  
22 marijuana smuggling trial. The Ninth Circuit affirmed finding that, because the government could  
23 have prosecuted Jenkins for illegal alien smuggling well before she presented her theory of  
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1 defense at the marijuana smuggling trial, the timing of the charges created the appearance of  
2 vindictiveness.

3       The Court found that the government had more than enough evidence to proceed with the  
4 alien smuggling charges prior to Jenkins's decision to testify. The government's evidence prior to  
5 Jenkins's in-court confession included: (1) her October 19 admission that she had been paid to  
6 smuggle aliens, (2) her October 20 admission that she had been paid to smuggle aliens and that she  
7 had been aware of the illegality of alien smuggling, and, (3) her January 9 admission that she had  
8 smuggled aliens on October 19 and 20 and had been apprehended. The Court noted, "[i]ndeed, the  
9 government admitted that prior to Jenkins's testimony 'it had enough to go forward...and that it  
10 could have brought charges earlier on...' *Jenkins*, 504 F.3d at 700. The Ninth Circuit concluded  
11 that the government's conduct under these facts created the appearance of vindictiveness.  
12

13  
14       In the instant case, like *Jenkins*, the government had more than enough evidence to proceed  
15 with the Superseding Indictment's additional and expanded charges prior to Kim's rejection of the  
16 plea offer and filing and arguing of motions. Based upon the evidence and information collected  
17 and obtained by the Government from at least January 2006 through July 2007, the government  
18 indeed had enough to go forward on the charges contained in the Superseding Indictment and  
19 could have brought the charges earlier but instead only did so after Kim rejected the plea offer and  
20 asserted his procedural, constitutional and statutory rights. The Superseding Indictment is the  
21 product of prosecutorial vindictiveness and should be dismissed with prejudice.  
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1 **CONCLUSION**

2 The Superseding Indictment is the product of prosecutorial vindictiveness and should be  
3 dismissed with prejudice.

4 Dated this 18<sup>th</sup> day of April, 2008.

5 **LUJAN AGUIGUI & PEREZ LLP**

6  
7 By: 

8 **PETER C. PEREZ, ESQ.**

9 *Attorneys for Defendant In Hyuk Kim aka Dominic*

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26 K-0021/878-00/0878/PCP/dmg



# EXHIBIT A

DEPARTMENT OF HOMELAND SECURITY  
ICE

TECS ACCESS CODE 3

## REPORT OF INVESTIGATION

PAGE 1

CASE NUMBER GM16CR06GM0005

TITLE: IN HYUK KIM

CASE STATUS: INIT RPT

REPORT DATE  
042006DATE ASSIGNED  
022106PROGRAM CODE  
6H0REPORT NO.  
001

RELATED CASE NUMBERS:

COLLATERAL REQ:

TYPE OF REPORT:  
SOURCE DEBRIEF INFORMAT/ INVESTIGATIVE FINDINGS

TOPIC: AN'S STATEMENT REGARDING I-94 SCAM AND EMPLOYMENT OF KOREAN FEMALES

## SYNOPSIS:

AN Ye-Ju claims that her former employer, Mi Kyung BOSLEY, owner of Apple Lounge, and KIM In-Hyuk, Korean Airlines ticket agent, are falsifying the departures of Korean nonimmigrant females who entered Guam under the Guam Visa Waiver (GVW) program. AN alleged that KIM could make it appear that the Korean nonimmigrant females left Guam by placing their I-94's with the I-94's collected from passengers that departed Guam and submitting the I-94's to Customs and Border Protection. AN stated that KIM, without her permission, removed the I-94 from her passport to falsify her departure from Guam and BOSLEY used \$300.00 from AN's wages to pay KIM.

This report documents a report from an anonymous source regarding the Apple Lounge and human trafficking of Korean Females and AN's statement to ICE agents regarding BOSLEY and KIM.

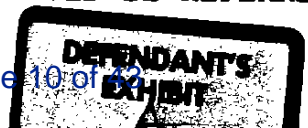
DISTRIBUTION:  
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CONWAY TIMOTHY SENIOR SPEC AGENTAPPROVED:  
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GUAM - RAC

TELEPHONE: 671 472 7484

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ICE

PAGE 2

R E P O R T O F I N V E S T I G A T I O N  
C O N T I N U A T I O N

CASE NUMBER GM16CR06GM0005

REPORT NUMBER: 001

## DETAILS OF INVESTIGATION

1. On 1/23/2006, an anonymous male source informed TFA Erwin Fejeran of the following:

A. AN Ye-Ju, a Korean female the source is acquainted with, was supposed to come to Guam to attend school. When AN arrived in Guam, she was forced to work at the Apple Lounge, a karaoke bar located in Harmon across from Green Supermarket, as a hostess.

B. AN's passport was taken away from her by Mi Kyung BOSLEY, the owner of Apple Lounge.

C. AN hasn't been paid by BOSLEY for her work at the bar.

D. Mi Kyung BOSLEY is trying to fix AN's status by having someone take the I-94 and make it appear that AN departed Guam.

E. Mi Kyung BOSLEY married Eric BOSLEY, who is in the U.S. Air Force, and the marriage may have been arranged. They are divorced and Eric BOSLEY may be stationed in South Korea.

G. AN moved away from the apartment that is rented by Apple Lounge and the anonymous source will try to find AN and bring her to TFA Fejeran so AN can be interviewed.

2. On 2/2/2006, AN was arrested by the Guam Police Department (GPD) at the Ritz Lounge when GPD received a disturbance complaint. GPD determined that AN was a GT overstay and she was transported to the Customs and Border Protection (CBP) at the Guam International Airport. CBP confirmed that AN was an overstay and she was turned over to ICE-OI for immigration processing.

3. On 2/3/2006, AN informed TFA Fejeran and S/A Conway of the following:

A. AN wanted to go to school in Guam to study English but she needed a room so AN's friend, Hee Joung JANG, arranged for her to work at a bar during the night. JANG told AN that Mi Kyung BOSLEY, the owner of a bar on Guam, would provide a room for them but she would have to work at the bar during the night.

B. Mi Kyung BOSLEY paid for AN's ticket to Guam but AN was supposed to pay back half of the airline ticket to Mi Kyung BOSLEY with her future earnings. The money for the airline ticket was wired to JANG's bank account in Korea by Hee Dong KANG.

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ICE

PAGE 3

R E P O R T O F I N V E S T I G A T I O N  
C O N T I N U A T I O N

CASE NUMBER GM16CR06GM0005

REPORT NUMBER: 001

C. AN was going to work at a new bar which was scheduled to open on 11/9/2005. AN and JANG arrived on Guam from Korea on 11/8/2005, and they were met outside of Customs and Quarantine by Chris TYDINGCO, a local married to JANG's sister (Hae Joungh JANG). TYDINGCO drove AN and JANG to Denny's Restaurant in Tamuning where they met Mi Kyung BOSLEY. TYDINGCO stayed a few minutes at Denny's and then departed.

D. At Denny's, Mi Kyung BOSLEY told JANG and AN that she would give them more details about the bar after it opens. Mi Kyung BOSLEY also said that AN's airline ticket from Korea cost her \$700.00 and that AN will have to pay her \$350.00. Mi Kyung BOSLEY also stated that whatever AN earns at the bar will be split 50/50.

E. After coffee, Mi Kyung BOSLEY, AN and JANG met HAN Kichul, who is BOSLEY's boyfriend. HAN Kichul is a Korean male, about 35 years old and an illegal alien. HAN Kichul drove BOSLEY, AN and JANG to the Benson's Apartment #A10, located in Oka Tamuning. The telephone number at apartment A10 may be 647-2880.

F. Apartment A10 is a 2 bedroom apartment owned by Mi Kyung BOSLEY. AN stayed in one room and JANG stayed in the other one.

G. Mi Kyung BOSLEY left the apartment and HAN Kichul took AN and JANG to a restaurant to eat.

H. On 11/9/2005, Apple Lounge had its grand opening and AN, JANG and 4 other Korean girls worked that night.

I. AN worked every night from 1730 until the last customer left and she did this until she left Guam on 11/22/2005. AN earned about \$1,300.00 but she had to pay Mi Kyung BOSLEY \$350.00 for the airline ticket.

J. HAN Kichul usually drove AN, JANG and one other Korean female both to and from apartment A10 and the Apple Lounge. HAN Kichul drives a 4 door, black Nissan, unknown license number.

K. On 12/2/2005, AN returned by herself to Guam from Korea. An unknown male wired AN \$300.00 but the money came from Mi Kyung BOSLEY. When AN arrived on Guam, a Korean taxi driver was waiting for her at the airport and she was driven to Apple Lounge. The taxi driver left after dropping AN off at the lounge.

L. AN began working at Apple Lounge on 12/3/2005.

M. JANG never left Guam and AN heard that for \$300.00, a Korean Airlines

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DEPARTMENT OF HOMELAND SECURITY ICE  R E P O R T O F I N V E S T I G A T I O N C O N T I N U A T I O N	PAGE 4 <hr/> CASE NUMBER GM16CR06GM0005 <hr/> REPORT NUMBER: 001
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employee, later identified as KIM Inhyuk, took JANG'S I-94 and put it in the Korean Airline's computer to make it appear that JANG left Guam.

N. On 12/16/2005, AN was to depart Guam for Korea but Mi Kyung BOSLEY took AN's passport. While at the Apple Lounge, Mi Kyung BOSLEY gave AN's passport to KIM In-Hyuk. AN did not pay anything to KIM In-Hyuk because Mi Kyung BOSLEY had AN's money.

O. KIM In-Hyuk took AN's airline ticket and passport and about 3 weeks later AN got her passport back from John SAN AGUSTIN, who is a customer at Apple Lounge.

P. SAN AGUSTIN liked AN and said that if she married him she would not have to leave Guam.

Q. AN left the Apple Lounge after Christmas and SAN AGUSTIN took her to his residence in Sinajana. SAN AGUSTIN later took AN to a motel (unknown name) where she stayed for 2 days. AN later stayed with her boyfriend Pok Sik Yi JANZEN.

R. On 2/2/2006, Mi Kyung BOSLEY found out that AN was visiting with a friend at the Ritz Bar. Mi Kyung BOSLEY went to the Ritz Bar with some friends and an argument ensued. Mi Kyung BOSLEY called GPD and she told the police that AN was an illegal alien. A Korean speaking GPD officer told AN that she was being arrested because she was an illegal alien. Mi Kyung BOSLEY appeared to know the police officers who arrested her because she was joking and laughing with them. AN recognized one of the Chamorro police officers that came to the Ritz Bar as a customer of the Apple Lounge.

S. HAN Kichul works at the game room located in the basement of the MGM Spa in Tamuning. The game room is owned by Jimmy (LNU). HAN Kichul is currently residing at Mai'ana Hotel #320 and his cell number is 687-8285. BOSLEY resides with HAN Kichul and her cell number is 688-0907.

T. AN heard that HAN Kichul and several other Korean males are involved in importing and distributing illegal drugs on Guam and they would meet at Club Citanozaka, the Volvo Club or the Apple Lounge. AN provided the following names:

A. PARK Kang Ho - owner of a mah jong game room (Royal Horse) located between the PIC and Holiday Store in Tumon

B. KIM Yong Sik (688-1028) - Boyfriend of Hee Joung JANG (687-0880)

C. SANG Sam Joung (688-5442) - Associate of PARK and KIM, runs the Brown

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ICE

PAGE 5

R E P O R T O F I N V E S T I G A T I O N  
C O N T I N U A T I O N

CASE NUMBER GM16CR06GM0005

REPORT NUMBER: 001

Derby

5. Mi Kyung BOSLEY aka Mi Kyung PARK was born in Korea on 8/7/1976 and is a permanent resident (A76 208 172) based on a marriage to U.S. citizen Eric BOSLEY.

6. KIM Inhyuk was born in Korea on 2/1/1982 and is a naturalized U.S. citizen (A37877014). According the Superior Court Criminal Justice Information System, KIM's SS# is 586-76-8722 and he resides at 107 San Roke in Barrigada.

7. Chris TYDINGCO aka Lawrence C. TYDINGCO with DOB 8/27/1974, is a Nissan Consultant and resides at 147 E. Espiritu Street.

Investigation continues.

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061407                                TECS II - LIST OF RELATED RECORDS                                PAGE
                                                                                               TN00706

                                4 RECORDS ARE RELATED TO BASE RECORD
GM16CR06GM0005001    ROI    CGM CONWAY                                T 042006

P4932610000CGM        AN                YE JU                A F 110979
                        SA  SUSPECT, ALIEN                                SUB-SOURCE

P9G74953200CGM        BOSLEY            MI KYUNG            A F 080776
                        SC  SUBJECT OF CURRENT INVESTIGATION        SUB-SOURCE

P9G74992300CGM        KIM                INHYUK            A M 020182
                        SC  SUBJECT OF CURRENT INVESTIGATION        SUB-SOURCE

GM16CR06GM0005        CASE CGM DUENAS                                J 022106
                        IN HYUK KIM

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# **EXHIBIT B.1**





U.S. Department of Justice

*[Handwritten signature]*  
AUG 13 2007

United States Attorney  
District of Guam

Sirena Plaza, Suite 500  
108 Hernan Cortez Avenue  
Hagatna, Guam 96910

(671) 472-7332  
FAX: (671) 472-7334

August 9, 2007

John Gorman  
Federal Public Defender  
Suite 501, FHB Bldg.  
400 Route 8  
Maite, Guam 96910

Re: United States v. In Hyuk Kim, Cr. No. 07-00064

Dear John,

I am enclosing the discovery on this case, and a plea offer. I understand that the *Marianas Variety* published the fact of his arrest the next day, so I don't know what he could do for us.

Sincerely,

LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and NMI

*[Handwritten signature]*  
KARON V. JOHNSON  
Assistant United States Attorney

# **EXHIBIT B.2**

kim.ple

LEONARDO M. RAPADAS

United States Attorney

KARON V. JOHNSON

Assistant U.S. Attorney

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Hagatna, Guam 96910

Telephone: (671) 472-7332

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Attorneys for the United States of America

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IN HYUK KIM, aka Dominic,

Defendant.

CRIMINAL CASE NO. 07-00064

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, IN HYUK KIM, enter into the following plea agreement:

1. The defendant agrees to plead guilty to an Indictment charging him with Conspiracy to Commit Alien Smuggling for Financial Gain, in violation of Title 18, United States Code, Section 371 and Title 8, United States Code, Section 1324(a)(1)(A)(iii).

2(a) The defendant, IN HYUK KIM, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of alien smuggling, money laundering and other related offenses. Cooperation shall include providing all information known to defendant regarding any criminal activity, including but not limited to the offense to

1 which he is pleading guilty. Cooperation will also include complying with all reasonable  
2 instructions from the United States; submitting to interviews by investigators and attorneys at  
3 such reasonable times and places to be determined by counsel for the United States; producing to  
4 the United States all non-privileged documents (including claimed personal documents) and  
5 other materials in the possession, custody or control of defendant requested by attorneys and  
6 agents of the United States; and testifying fully and truthfully before any grand juries, hearings,  
7 trials or any other proceedings where defendant's testimony is deemed by the United States to be  
8 relevant. Defendant understands that such cooperation shall be provided to any state, territorial,  
9 local or federal law enforcement agencies designated by counsel for the United States. Further, it  
10 is understood and agreed that defendant shall not directly, indirectly, or intentionally disclose  
11 anything defendant knows or had done concerning the United States' investigation to anyone  
12 other than defendant's attorney. Defendant agrees to take no steps directly or indirectly to warn  
13 any subject of this investigation that defendant, a subject or anyone else is being investigated.

14 (b) The United States will make this cooperation known to the Court prior to the  
15 defendant's sentencing. The defendant further understands that he remains liable and subject to  
16 prosecution for any criminal schemes of which he does not fully advise the United States, or for  
17 any material omissions in this regard.

18 (c) This agreement is not contingent in any way upon the outcome of any investigation,  
19 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in  
20 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the  
21 success of any prosecution.

22 (d) Except as otherwise herein provided, and in particular in Paragraph 11, the United  
23 States agrees not to prosecute defendant for any other non-violent offenses which were  
24 committed in the District of Guam or the Northern Mariana Islands (CNMI) which defendant  
25 reveals to Federal authorities during his cooperation with the United States. This agreement is  
26 limited to crimes committed by defendant in the districts of Guam or the CNMI..

1 (e) The defendant understands, however, that the government reserves the right to present  
2 the full scope of his criminal conduct to the sentencing court, and that it may be considered in  
3 determining his sentence, as provided by Guidelines § 1B1.3.

4 3. The defendant, IN HYUK KIM, further agrees to submit to a polygraph examination  
5 by any qualified Federal polygraph examiner. The defendant understands that such polygraph  
6 examinations may include, but will not be limited to, his knowledge of or involvement in alien  
7 smuggling and money laundering activities and his knowledge of other person's involvement in  
8 such activities. Defendant understands that the government will rely on the polygraph in  
9 assessing whether he has been fully truthful.

10 4(a) The defendant, IN HYUK KIM, understands that the maximum sentence for  
11 Conspiracy to Commit Alien Smuggling for Financial Gain, in violation of Title 18, U.S.C. § 371  
12 and Title 8, U.S.C. §§ 1324(a)(1)(A)(iii) and(A)(v)(I), is ten (10) years incarceration, a \$250,000  
13 fine, and a \$100 special assessment fee, which must be paid at the time of sentencing. This  
14 sentence may include a term of not more than three years supervised release. Defendant  
15 understands that if he violates a condition of supervised release at any time prior to the expiration  
16 of such term, the court may revoke the term of supervised release and sentence him up to an  
17 additional two (2) years of incarceration, pursuant to 18 U.S.C. § 3583(e)(3).

18 (b) If defendant cooperates as set forth in Paragraphs 2 and 3, the government will  
19 recommend that defendant receive the minimum term of incarceration recommended by the  
20 Sentencing Guidelines.

21 (c) If the United States believes the defendant has provided "substantial assistance" as  
22 defined by Sentencing Guidelines 5K1.1, the United States will request the court to depart below  
23 the statutory minimum pursuant to Title 18, United States Code, § 3553(e), and may, as provided  
24 by Sentencing Guidelines 5K1.1, request the court to depart below the applicable guidelines  
25 range when fixing a sentence for defendant or may, within one year after sentencing herein, move  
26 the court to order relief pursuant to Rule 35, Rules of Criminal Procedure to whatever guidelines  
27  
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1 range or sentence of incarceration the United States in its sole discretion deems appropriate.  
2 Defendant acknowledges that the United States has made no promise, implied or otherwise, that  
3 defendant will be granted a "departure" for "substantial assistance." Defendant further  
4 acknowledges that no promise of any kind has been made that a motion requesting such  
5 departure will be made except as otherwise provided herein.

6 (d) The United States agrees to consider the totality of the circumstances, including but  
7 not limited to the following factors, in determining whether, in the assessment of the U. S.  
8 Attorney, defendant has provided substantial assistance which would merit a government request  
9 for a downward departure from the mandatory statutory minimum or the applicable Guidelines  
10 sentencing range:

11 (1) the United States' evaluation of the significance and usefulness of any assis-  
12 tance rendered by defendant;

13 (2) the truthfulness, completeness, and reliability of any information or testimony  
14 provided by defendant;

15 (3) the nature and extent of defendant's assistance;

16 (4) any injuries suffered or any danger or risk of injury to defendant or defendant's  
17 family resulting from any assistance provided by defendant; and

18 (5) the timeliness of any assistance provided by defendant.

19 It is understood that even if a motion for departure is made by the United States, based  
20 upon defendant's perceived substantial assistance, the final decision as to how much, if any,  
21 reduction in sentence is warranted because of that assistance, rests solely with the District Court.

22 (e) The government will recommend a fine within the Sentencing Guidelines range. If  
23 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
24 full disclosure of his financial status to the United States Attorney's Office by completing a  
25 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.  
26 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

27 6(a) The defendant understands that to establish a violation of Conspiracy to Commit  
28 Alien Smuggling for Financial Gain pursuant to Title 18, United States Code, Section 371, and

1 Title 8, United States Code, Sections 1324(a)(1)(A)(iii) and (v)(I), the government must prove  
2 the following elements beyond a reasonable doubt:

3 First: beginning on or about the dates charged in the indictment, there  
4 was an agreement between two or more persons to commit the crime of  
alien smuggling as charged in the indictment;

5 Second: the defendant became a member of the conspiracy knowing of  
6 at least one of its objects and intending to help accomplish it; and

7 Third: one of the members of the conspiracy performed at least one overt  
8 act for the purpose of carrying out the conspiracy, with the jury all agreeing  
on the particular overt act committed.

9 6(b) The defendant understands that to establish a violation of Alien Smuggling for  
10 commercial gain, pursuant to Title 8, United States Code, Section 1324(a)(1)(A)(iii), the  
11 government must prove the following elements beyond a reasonable doubt:

12 First: the defendant concealed, harbored, or shielded from detection a  
person who was in the United States;

13 Second: the defendant knew the person was an alien;

14 Third: the defendant knew or was in reckless disregard of the fact that the  
15 alien had come to, entered or remained in the United States in violation of law;

16 Fourth: the defendant committed this offense for the purpose of  
commercial advantage or private financial gain.

17 7. The defendant agrees that the Sentencing Guidelines apply to this offense. The  
18 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,  
19 in calculating the applicable guidelines level. The Government and the defendant stipulate to the  
20 following facts for purposes of the Sentencing Guidelines:

21 (a) The defendant was born in 1982, and is a citizen of the United States.

22 (b) If the defendant cooperates with the United States by providing information  
23 concerning the unlawful activities of others, the government agrees that any self-incriminating  
24 information so provided will not be used against defendant in assessing his punishment, and  
25 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used  
26 in determining the applicable guidelines range.

1 (c) Guam has a Korean Tourist Visa Waiver program which allows Korean citizens to  
2 enter Guam as tourists for 15 days, without applying for a visa in advance of their entry to the  
3 United States. When a Korean citizen who wishes to enter as a tourist arrives at the Guam  
4 International Airport, he receives two forms, an I-736 Guam Visa Waiver Information form, and  
5 a Form I-94, which consists of two parts. The tourist is required to execute the I-736 and the  
6 entire I-94. When he passes through Customs & Border Patrol (CBP), the inspector collects the  
7 I-736 form and the top part of the I-94 form. The bottom portion of the I-94 is stapled into the  
8 tourist's passport. These two forms retained by the CBP inspector are mailed to ACS-INS-SBU  
9 Data Input Center, which enters this arrival information into the Treasury Enforcement Computer  
10 System (TECS). Thus, CBP has a record of the tourist's date of entry.

11 When the tourist departs for Korea, he presents his passport to an airline ticket counter  
12 employee. The airline employee removes the remaining part of the I-94 form; all such forms and  
13 the flight passenger manifest are submitted to CBP by the airline. In turn, an agent of CBP mails  
14 the collected I-94 forms to the Data Input Center, where the date of the tourist's departure is  
15 entered into the computer.

16 Defendant was employed by Korean Air and worked as a customer service agent. In that  
17 capacity, he routinely removed Korean tourists' I-94 forms from their passports and collected  
18 them for submission to CBS. Beginning sometime in 2003, defendant agreed to a scheme  
19 proposed by an owner of a nightclub which employed Korean women who had entered as tourists  
20 but overstayed their 15-day visa. Defendant agreed to file the I-94 departure form for one of the  
21 nightclub owner's employees, to make it appear that she had left Guam, when in fact she  
22 remained on Guam working. Subsequently, defendant filed the I-94 forms for approximately 29  
23 Korean citizens who had overstayed their visas. When these individuals desired to leave Guam,  
24 defendant would change information such as their date of birth so that a different person was  
25 reflected on the passenger manifest than the person who was actually leaving.

26 One of the nightclub owners for whom defendant filed premature I-94 Forms was Mi  
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1 Kyung Bosley. Bosley was approached by an informant acting for Immigration and Customs  
2 Enforcement. The informant asked Bosley if she would help him keep certain Korean citizens on  
3 Guam, by filing their I-94 Forms to make it appear that they had left within the prescribed 15  
4 days. Bosley agreed. On November 6, 2006, the informant met Bosley and gave her copies of  
5 the passports and I-94 numbers for three individuals who he represented had entered Guam as  
6 Korean tourists and had overstayed their 15-day limit. At that time Bosley accepted \$1,400.  
7 After the meeting, Bosley delivered the documents and \$1,200 to defendant, for the purpose of  
8 causing the I-94 data to be entered into the TECS computer to make it appear that these three  
9 Koreans had left Guam, when in fact he and Bosley believed they had remained here.

10 On November 17, 2006, Bosley met with the informant again and accepted \$800 for the  
11 purpose of ensuring that an I-94 form purportedly issued to a fourth Korean tourist would be  
12 delivered to defendant to cause it to be entered into the TECS system, again to reflect that this  
13 person had left Guam. Bosley then met with defendant and gave him \$800 and the documents on  
14 this fourth person. Later, defendant asked Bosley to get the e-ticket number of this tourist.

15 On January 16, 2007, defendant met with the ICE informant to discuss the status of the I-  
16 94 forms which he had received.

17 (d) The defendant understands that notwithstanding any agreement of the parties, the  
18 United States Probation Office will make an independent application of the Sentencing  
19 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
20 sentencing guidelines range projected by his counsel or any other person, such discrepancies are  
21 not a basis to withdraw his guilty plea.

22 8. The defendant understands that this plea agreement depends on the fullness and  
23 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should  
24 fail to fulfill completely each and every one of his obligations under this plea agreement, or make  
25 material omissions or intentional misstatements or engage in criminal conduct after the entry of  
26 his plea agreement and before sentencing, the government will be free from its obligations under  
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1 the plea agreement. Thus defendant, in addition to standing guilty of the matters to which he has  
2 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other  
3 crimes, and for the counts which were to be dismissed. In any such prosecution, the prosecuting  
4 authorities, whether Federal, State, or Local, shall be free to use against him, without limitation,  
5 any and all information, in whatever form, that he has provided pursuant to this plea agreement  
6 or otherwise; defendant shall not assert any claim under the United States Constitution, any  
7 statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of  
8 Evidence, or any other provision of law, to attempt to bar such use of the information.

9 9. Defendant understands that whether he has completely fulfilled all of the obligations  
10 under this agreement shall be determined by the court in an appropriate proceeding at which any  
11 disclosures and documents provided by defendant shall be admissible and at which the United  
12 States shall be required to establish any breach by a preponderance of the evidence. In  
13 determining whether there has been a breach, the parties agree that any polygraph results and the  
14 polygrapher's conclusions and opinions shall be admissible.

15 10. The defendant understands that his sentencing may be continued, at the discretion of  
16 the United States, until after the indictment and trial of any associates involved. This will also  
17 enable the Court to see the full degree of the defendant's cooperation. The defendant therefore  
18 waives any right he may have to any speedy sentencing and hereby agrees to any continuance of  
19 his sentencing date as it may become necessary.

20 11. In exchange for the government's concessions in this plea agreement, the defendant  
21 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
22 the sentence imposed in this case. The defendant understands and agrees that the government  
23 has bargained for a criminal conviction arising from his criminal conduct. If at any time  
24 defendant's guilty plea or conviction is rejected, withdrawn, vacated or reversed, for whatever  
25 reason, or is rendered invalid for any reason, or if any change of law renders the conduct for  
26 which he was convicted to be non-criminal, defendant agrees that he will enter a guilty plea to  
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1 another charge encompassing the same or similar conduct. In such event, defendant waives any  
2 objections, motions or defenses based upon the Statute of Limitations, Speedy Trial Act, or  
3 constitutional restrictions as to the time of bringing such charges.

4 12. The defendant acknowledges that he has been advised of his rights as set forth below  
5 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
6 had sufficient opportunity to reflect upon, and understands the following:

7 (a) The nature and elements of the charge and the mandatory minimum penalty provided  
8 by law, if any, and the maximum possible penalty provided by law;

9 (b) His right to be represented by an attorney;

10 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the  
11 right to be represented by counsel, the right to confront and cross-examine witnesses against him,  
12 and the right not to be compelled to incriminate himself, that is, the right not to testify;

13 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to  
14 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
15 up, the right to a trial;

16 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure  
17 11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court  
18 does not accept the sentencing recommendations of the government or his counsel;

19 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions  
20 about the offenses to which he has pled, under oath, and that if he answers these questions under  
21 oath, on the record, his answers may later be used against him in prosecution for perjury or false  
22 statement if an answer is untrue;

23 (g) That he agrees that the plea agreement is voluntary and not a result of any force,  
24 threats or promises apart from this plea agreement;

25 (h) The defendant is satisfied with the representation of his lawyer and feels that his  
26 lawyer has done everything possible for his defense;

1 (i) the defendant has had this plea agreement translated into his native language and he  
2 fully understands it.

3  
4 DATED: \_\_\_\_\_

IN HYUK KIM  
Defendant

6  
7 DATED: \_\_\_\_\_

JOHN T. GORMAN  
Attorney for Defendant

9  
10 LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and NMI

11  
12 DATED: \_\_\_\_\_

By:

KARON V. JOHNSON  
Assistant U.S. Attorney

14  
15 DATED: \_\_\_\_\_

JEFFREY J. STRAND  
First Assistant U.S. Attorney

# **EXHIBIT C.1**

11/02/06

CALL TO BOSLEY #1

11.02.2006

BOSLEY: (KO) Hello.  
HN3960: (KO) it's me. I am sorry.  
BOSLEY: (KO) I called but no answer, may be he is sleeping.  
HN3960: (KO) Okay, does he work in the early morning? So, what time should I call?  
BOSLEY: (KO) you should try evening.  
HN3960: (KO) Evening. The reason why I call, three ladies '15<sup>th</sup> day will be on Monday morning. so I was wondering if you could find the way either those ladies would be able to stay or should leave before they overstay. They are willing to pay if they could be informed by Sunday.  
BOSLEY: (KO) Okay, I will try to find out.  
HN3960: (KO) Do you understand what I am saying? These ladies will be overstaying if they don't leave by Sunday. So they want to be informed by Sunday afternoon so they can arrange their schedule. They said they could pay more if he want.  
BOSLEY: (KO) okay, I see.  
HN3960: (KO) again, they are willing to pay, if it is possible.  
BOSLEY: (KO) I see.  
HN3960: (KO) Do you know how long it will take after he says okay?  
BOSLEY: (KO) even he says okay, he has to go to work to find out.  
HN3960: (KO) so you mean, you can find it out right way when he goes to work at airport.  
BOSLEY: (KO) No, I mean, it will take one or two days  
HN3960: (KO) okay, one or two days. If you talk to him today, today is Thursday  
BOSLEY: (KO) if I talk him today, I will probably see him tomorrow.  
HN3960: (KO) Okay, when you meet him tomorrow, those ladies need to go with you or just hand the I-94 and money to you.  
BOSLEY: (KO) yes, money and..  
HN3960: (KO) How about passport?  
BOSLEY: (KO) yes, passport and I-94  
HN3960: (KO) Passport, I-94 and money  
BOSLEY: (KO) Yes.  
HN3960: (KO) it will be three hundred dollars, isn't it?  
BOSLEY: (KO) Yes  
HN3960: (KO) Then they need to pay another three hundred dollars when they leave.  
BOSLEY: (KO) yes.  
HN3960: (KO) they are willing to pay so I want you to find out it is possible.  
BOSLEY: (KO) Okay, I see.  
HN3960: (KO) can you call me and let me know?  
BOSLEY: (KO) okay, I will give you call.  
HN3960: (KO) Okay.  
BOSLEY: (KO) Bye.

11.2.2006 3:20 pm

BOSLEY: (KO) Hello  
HN3960: (KO) It me, is it okay to hand to you a copy of passport and I-94  
BOSLEY: (KO) Copy?  
HN3960: (KO) yes, a copy of passport.  
BOSLEY: (KO) she was using a copy as passport when she came here?  
HN3960: (KO) No, do they need to give you original passport or a copy of passport?  
BOSLEY: (KO) No, passport. It has to be passport, not a copy.  
HN3960: (KO) if they lost their passport?  
BOSLEY: (KO) well, if they lost their passport, how did they come if they lost passport?  
HN3960: (KO) I mean if they lost after they came here.  
BOSLEY: (KO) Oh, after they came.  
HN3960: (KO) yes, the I-94 usually attached to passport. Let's assume the lady took it off from passport and she lost passport. Then what they do?  
BOSLEY: (KO) then how they are going to depart?  
HN3960: (KO) they can go to the consulate to make temporary travel document when they decide to leave. They can use it to go to Korea.  
BOSLEY: (KO) I see.  
HN3960: (KO) can you ask if they can use a copy of passport. They have an I-94. They have a misplaced doubt when I ask to have a passport. They might think I will take and sell it.  
BOSLEY: (giggle)  
HN3960: (KO) so, Can you ask if they can give you a copy of passport and original I-94.  
BOSLEY: (KO) okay. Bye.  
HN3960: (KO) Bye.

# **EXHIBIT C.2**



11/6/06

CALL TO BOSLEY

11/6/2006 01:16 PM

PHONE RING

BOSLEY: (KO) Hello  
HN3960: (KO) Hi, did you up already?  
BOSLEY: (KO) Yes.  
HN3960: (KO) I called your house but no answer.  
BOSLEY: (KO) Brother, I can't hear you.  
HN3960: (KO) Hello, hello, hello

PHONE RING

BOSLEY: (KO) Hello.  
HN3960: (KO) Can you hear me?  
BOSLEY: (KO) yes but it is not very clear.  
HN3960: (KO) Can you hear me now?  
BOSLEY: (KO) Yes, I was on other line. Can I call you back?  
HN3960: (KO) Okay. When?  
BOSLEY: (KO) within twenty minutes.  
HN3960: (KO) Okay.  
  
HN3960: (KO) Hello  
BOSLEY: (KO) hello, it's me  
HN3960: (KO) are you done? You are busy even though you are not working.  
BOSLEY: (KO) Yes, I know.  
HN3960: (KO) did you happen to ask him?  
BOSLEY: (KO) No, he was sleeping.  
HN3960: (KO) is he sleeping? Okay, can you call me when you talk him?  
BOSLEY: (KO) okay.  
HN3960: (KO) Money and necessary documents are all set.  
BOSLEY: (KO) What did you say the number of persons?  
HN3960: (KO) Three. Do you usually meet him around ten o'clock?  
BOSLEY: (KO) Yes.  
HN3960: (KO) so could we meet around nine o'clock.  
BOSLEY: (KO) Okay.  
HN3960: (KO) here you go. Four hundred dollars per person, so it will be one thousand two hundred dollars and your commission will be two hundred dollars.  
BOSLEY: (KO) Wow, for real. Thank you  
HN3960: (KO) so meet me one hour before you see him.  
BOSLEY: (KO) Okay.  
HN3960: (KO) Are you going to go to airport.  
BOSLEY: (KO) Yes.  
HN3960: (KO) so meet me one hour early then meeting with him call me as soon as you contact him.



BOSLEY: (KO) Okay, I will call him. Bye  
HN3960: (KO) okay, bye

# **EXHIBIT C.3**

11/6/06  
King

MEETING AT KING #3 (BOSLEY)  
11/6/2006

HN3960: hello.  
Someone: mike  
HN3960: Yeah.  
Someone: (inaudible)  
HN3960: Which one? No, no, no, I don't have, we don't have that yet.  
HN3960: yeah, later one. Probably nine thirty or ten  
Someone: (inaudible)  
HN3960: okay, alright. Hahaha, bye

HN3960: (KO) (answering phone) hello. Yes, next to it. Okay. Yes.  
Waitress: anything to drink?  
HN3960: Coffee, I am waiting for one more person.

HN3960: (KO) hello, where are you? Excuse me? She is in restroom? Yes, sir, I am waiting for her. Has she left yet? 8:30? Oh, I am here already and have been waiting for her. Yes, could you please have her call me? Okay. Bye.

HN3960: (EN) Yes, she thought the meeting is at 8:30, yeah, she is still at restroom right now. Yes, she is at home. She was thinking 8:30 meeting. Yeah. Okay.  
Lan-ya. (To waitress) Excuse me, please leave it on table, I go smoke.

HN3960: (KO) (answering phone) hello, where are you? We suppose to meet at 8:00. Hurry up.

HN3960: (KO) (answering phone) hello, sir, I will call you.

HN3960: Thank you  
Waitress: you're welcome.

HN3960: (KO) you thought the meeting was 8:30? What are you going to drink?

BOSLEY: coffee. (SIGH)  
HN3960: (KO) by the way, what is that?  
So, it passed one week?

BOSLEY: (KO) one week  
HN3960: (KO) how do you assure that it is work? Do you know anyone have done it before? Are you sure?  
So, we don't know that whether it will work or not, unless the lady comes back from Korea after they depart from Guam. right? Were they able to come back?

BOSELY: (KO) yes, many of them came back.  
HN3960: (KO) they did not get in any trouble when they came back even they overstayed. Is it right?  
BOSLEY: (KO) what I have heard about this is the immigration will not have any record if they don't turn in I-94.  
HN3960: (KO) but usually the airlines take I-94 from passenger. Isn't it? So, they don't stamp it.  
BOSLEY: (KO) they do.  
HN3960: (KO) so the airlines take it from passenger and turn it in to immigration.  
BOSLEY: (KO) could be.  
HN3960: (KO) I have seen the airlines agent collect it at check in counter. I guess the airlines have to turn it in to immigration.  
BOSLEY: (KO) you know, the passport usually has stamp that indicate in and out date. But there will be no out date stamp if they do this.  
HN3960: (KO) when the ladies depart.  
BOSLEY: (KO) Right. The immigration will have no record when those ladies left from here, the immigration only have arrival date record. The immigration won't know. The immigration officer might think some system error or something  
HN3960: (KO) you mean, immigration side worker will be involve to help us do this...  
BOSLEY: (KO) I brought the machine.  
HN3960: (KO) oh, you brought it? How did you put in the car? Wasn't it heavy?  
BOSLEY: (KO) it was not.  
HN3960: (KO) Hahaha, how about Sisley?  
BOSLEY: (KO) Working  
HN3960: (KO) same place?  
BOSLEY: (KO) no, she is working at vanjour.  
HN3960: (KO) vanjour? She quit? Why?  
BOSLEY: (KO) (inaudible)  
HN3960: (KO) I thought she makes a lot of money out of tips, wasn't she? Oh, may be people spent only small money, no big money spender. Chinese? massage ladies come?  
BOSLEY: ...  
HN3960: (KO) you have done it so I have to trust you.  
BOSLEY: (KO) (inaudible)  
HN3960: (KO) how about those ladies who overstayed.  
BOSLEY: (KO) they are here.  
HN3960: (KO) what do they do because the store is closed?  
BOSLEY: (KO) they don't work.  
HN3960: (KO) they just stay at home. So, they have done it and did not have any trouble to enter Guam.  
BOSLEY: (KO) Yes, many of them have done it.

HN3960: (KO) yes, I knew and heard about In Hyuck does it. But it is unbelievable.

BOSLEY: (KO) many of them came back, I also know one person who has done it.

HN3960: (KO) wow, if it is possible as we talk would be awesome and those ladies could go and come back without worry.

BOSLEY: Do the ladies have to pay when they leave?

HN3960: (KO) yes, also they have to let us know.

BOSLEY: (KO) okay, they have to be informed you the date they wish to leave.

HN3960: (KO) Yes, because we also have to see the immigration side worker's schedule. When these ladies wish to leave and the immigration side worker's who help us out, work that day then those ladies successfully depart with out getting in trouble.

BOSLEY: (KO) no matter what, the ladies have to let you know, other wise they will be record as overstay.

HN3960: (KO) there will be stamp on the passport.

BOSLEY: (KO) no, there will be no stamp for departure.

HN3960: (KO) The passport will be stamped when they depart.

BOSLEY: (KO) No, the passenger will not go thru immigration inspection for departure.

HN3960: (KO) Then what will be problem.

Unknown female: (KO) that is what I don't understand.

BOSLEY: (KO) as I know, the I-94 has stamped with maximum length of staying, so turn in I-94 first before the day then technically the record shows the person left even he or she is on Guam.

HN3960: (KO) yes, right. Right.

BOSLEY: (KO) okay, just turn I-94 in, that's why they need that.

HN3960: (KO) Right, right. So they are wave for immigration inspection.

Unknown female: (KO) No, I have been telling you, there will be no immigration inspection for departure.

BOSLEY: (KO) No, it is not inspection...

Unknown female: (KO) I have heard something about adjusting schedule for departure.

BOSLEY: (KO) Even departure, they are... (Inaudible)

HN3960: (KO) the airlines must do something.

BOSLEY: (KO) the airlines should collect I-94 from passenger, but they probably switch with something...

HN3960: (KO) right.

Unknown female: (KO) so I only need to hand to you three I-94s and copies of passport.

HN3960: (KO) Yes, those are copies?

Unknown female: (KO) Yeah, those ladies, they don't trust other people, so they don't want to give me their passport not even to their madam.

HN3960: (KO) is that right?

HN3960: (KO) Those girls share information's among themselves and the websites are well updated. Just recently, there was an accident.

BOSLEY: (inaudible)

HN3960: (KO) Right, I am not supports get this from them. Those girls are getting smatter and well trained.  
So, they have to pay more if they don't have this?

Unknown female: yes.

HN3960: (KO) Three person. One of girl was born in 1980, the other, she is kind of old, was born in 1965 and last girl born in 1976.  
You said copy can be used.

BOSLEY: (KO) so, the older girl who born in 1965 is the Madame?

HN3690: (KO) Hahaha, probably, what else she can do. She is kind of old.  
And regarding the passport copy, they make copy like this angle.

BOSLEY: (KO) Okay.

HN3960: (KO) I was not sure about stamp.

BOSLEY: (KO) in my opinion, the stamp doesn't matter unless they have an I-94.  
Isn't here non smoke?

HN3960: (KO) you can't smoke in side restaurant.  
One, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, one thousand two hundred and two hundred.  
Those girls seem to be stay here forever.

BOSLEY: (KO) are they pretty?

HN3960: (KO) Oh, please take a look those pictures. Do you think they are pretty?

BOSLEY: (Inaudible)

HN3960: (KO) it becomes very hard to find the ladies. Pak Chan ho's store has some ladies and Takara..

BOSLEY: (KO) Where is this store? Is it newly opened?

HN3960: (KO) it is going to be open soon, but have had a hard time to supply ladies. Could you allow your store's ladies work at the new store?

BOSLEY: (KO) But they don't want to work.

HN3960: (KO) they may have a man who support them. That's why they don't want to work.

BOSLEY: (KO) Are you business partner?

HN3960: (KO) I just help them out. Even giving a help have kept me busy.

BOSLEY: (KO) it doesn't look like,

HN3960: (KO) I just help them.

BOSLEY: (KO) you moved to here? This location is better right? I thought so.

HN3960: (KO) yes, it is much better.

BOSLEY: (KO) there is a Bingo across.

HN3960: (KO) yes, it get very busy when the bingo open. The bingo opens 4days in a row.

BOSLEY: (KO) it is perfect location for killing the time before the bingo.

HN3960: (KO) it is also very spacey.

BOSLEY: (KO) it is almost big as here.  
 HN3960: (KO) yes, it is very big.  
 Unknown female: (inaudible)  
 HN3960: (KO) Today?  
 BOSLEY: (KO) yes.  
 HN3960: (KO) today, but how am I going to trust this. Someone will call you if it is done.  
 BOSLEY: (KO) the copies probably returned to them.  
 HN3960: (KO) you mean the passport copies. How about I-94?  
 BOSLEY: (KO) what about I-94?  
 Unknown female: (inaudible)  
 HN3960: (KO) oh, right. These girls pretend to be left, therefore, the I-94 have to be returned to immigration. Is the passport copies will be returned as proof?  
 BOSLEY: (KO) I will ask them to sign at passport copy to proof it's done without problem.  
 HN3960: (KO) yeah, those girls don't trust other. How dare they are. I have heard about this, but I wasn't sure.  
 Unknown female: (KO) when thing goes smooth and nice they don't complain, but when something goes wrong, they always blame us big time.  
 HN3960: (KO) Oh, well I have to trust you since you said you have done it.  
 Unknown female: (KO) Many of them have done it.  
 BOSLEY: (KO) yeah, many. One of the girls who used to work at YEBO, overstayed 5 or 6 months went to Austria. She came back and overstayed again went back to Korea.  
 HN3960: (KO) so it is trustable. I was thinking no one believes this and It is a famous repertory to temps girls, I have heard when the guy tried to hook up the girls use this as an allurements.  
 Unknown female: (KO) I have also heard they guy mentions about marriage for just dating.  
 HN3960: (KO) I have heard that guy ask a date for exchanging turn in I-94 but I would not believe that before. You know, I also heard Cho En Young, she used to work at Korean air, and she did it along with Tour Company.  
 By the way, what time are you going to meet?  
 BOSLEY: (KO) nine o'clock.  
 HN3960: (KO) nine o'clock, you still have a time. Is he staying at Mariana?  
 BOSELY: (KO) No, I am not sure. He is going to work so we are going to meet around airport.  
 HN3960: (KO) The copy will be returned to them and if I-94 turn in within one week after those ladies came, they wouldn't be overstayed. Right?  
 BOSLEY: (KO) Yes, it is hard if more then one week.  
 Unknown female: (KO) Yes, It is still okay if it is one week, close to 15days is also possible but kind of hard.



HN3960: (KO) you mean it is possible but has a difficulty. It could cost more.

BOSLEY: (KO) He said no period. Even more money.

HN3960: (KO) Anyway he has connected to immigration side worker. So what is so difficult?

BOSLEY: (KO) well, but he said no.

HN3960: (KO) How come he said okay last time? Those girls would be overstayed if you have said okay last Sunday.

BOSLEY: (KO) I meant it is okay about one week but can't be more than one week.

HN3960: (KO) just keep it; I will go your house for picking it up. Shall we go?

BOSLEY: (KO) can I finish this coffee?

HN3960: (KO) okay, I just don't want you to be late.

BOSELY: (KO) it is not far from here.

HN3960: (KO) Okay, why don't you work if you don't mind to ask?

Unknown female: (KO) Just, I can't find a job.

HN3960: (KO) that's grate you must be stable without income.

Unknown female: (KO) No, I just don't know anything.

BOSLEY: (KO) By the way, whose store is it? I heard the lady who used to own ROCK BONG KI bar, she is going to open other bar also.

HN3960: (KO) who is that used to own ROCK BONG KI bar?

BOSLEY: (KO) Oh, what was her name? I can't remember her name. She married one of the tour guides. I can not remember name. Anyway what I heard is she is going to open other bar somewhere soon or later.

HN3960: (KO) Where?

BOSLEY: (KO) I didn't ask.

HN3960: (KO) anybody could open bar if they are able to supply girls to bar some of bar's business is not so well because they are not having girls and have difficulty to find the girls.

BOSLEY: (KO) Business is not good?

HN3960: (KO) If the bar has girls, the bar's business is okay. Club TAKARA's new girl makes three hundred dollars one day. Three hundred dollars.

BOSLEY: (KO) For real? Club TAKARA need a madam?

HN3960: (KO) yeah, because So Hyun quite.

BOSLEY: There is big gap, hot girls make good enough money at Korea so they don't want to come here, regular girls can't make money. Even not pretty girls make three to four thousand at Korea, so they are not interested if they make less money at here. We also can't promise them because economy is not so good.

HN3960: (KO) these girls have gotten smarter, they would not trust me doing this.

Unknown female: (KO) are they overstay already?

BOSLEY: (KO) No.

HN3960: (KO) no, those girls just came here recently. 27<sup>th</sup> or 28<sup>th</sup> of October. Man, I am telling you, I have a hard time persuade them into believing me.  
I was thinking I should have them meet In Hyok (laugh) and listen from him.

BOSLEY: (KO) when is the bar open?

HN3960: (KO) it can't be open now with not having enough girls. So we don't want those ladies who are already here to not leave us.

BOSLEY: (KO) who is the owner.

HN3960: (KO) the owner is form Korea, not a local Koran.

BOSLEY: (KO) the owner is form Korea and also madam. It would be hard.

HN3960: (KO) why don't you come and help us, you can do madam.  
Are you pondering on plan to open your business or something?  
Don't you have a boredom just stay home? Well even myself, I have gone out long.

BOSLEY: (light)

HN3960: (KO) please could you call me. Let's go. We had two coffees and one ice tea.

BOSLEY: (KO) Do you keep in touch with Hyun Hyock.

HN3960: (KO) he went Korea. He calls me sometimes and says he doesn't find the job yet.

BOSLEY: (KO) Where is he?

HN3960: (KO) in Seoul.

BOSLEY: (KO) isn't he going to come here?

HN3960: (KO) didn't you know he was overstayed

BOSLEY: (KO) Yes.

HN3960: (KO) how he could come?

BOSLEY: (KO) He told me that he would do something with his passport to come here.

HN3960: (laugh) he is not coming without secure job, you know he had a hard time at while he was here.

BOSLEY: (KO) How about Hyo Chul?

HN3960: (KO) I saw him with Dong Hee last time.

BOSLEY: (KO) he is not seeing Angela anymore?

HN3960: (KO) well, he is Angela's slave. (Laugh)

Unknown female: (KO) is Angela still doing that?

HN3960: (KO) Well, is Angela still own club business class?

BOSLEY: (KO) I think so.

HN3960: (KO) how about .....?  
Is Tumon Village is good? How much is it? How many bedrooms?

BOSLEY: (KO) two bedrooms, one thousand two hundred dollars include water.

HN3960: (KO) could you please ask them next available time? The immigration side worker's days off are Friday and Saturday so they have to avoid those two days.

BOSLEY: (KO) I am not sure, I will ask.

HN3960: (KO) no rush, whenever you have chance to ask, you are going to meet him/her later anyway. Just let me know about his days off and possibility. Can you call him and ask?

BOSLEY: (KO) (ON THE PHONE) hello, Hi, it's me. Is it possible today? Okay, you can do it today. When you can't do it? Your days off are not set? Your days off are Friday and Saturday right now. No, I have a meeting with mike now, he wants to me ask you. One week before, okay. Anyway I am going to leave now. He says he has to know one week ahead time and days off are Friday and Saturday right now. His days off are subject to change sometimes.

HN3960: (KO) okay, call me.

BOSLEY: (KO) Yes, I will.

HN3960: (KO) please stop by our game room sometimes.

Unknown female: (KO) yes.

BOSELY: (KO) I will call you tomorrow.

HN3960: (KO) okay, call me.

BOSLEY: (KO) see you tomorrow.

HN3960: (KO) okay bye now.

Unknown female: (KO) Bye, take care.

BOSLEY: (KO) bye.